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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,040	01/14/2002	Paul Brian Duerk	Duerk 2-2	3492

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EXAMINER

GAUTHIER, GERALD

ART UNIT

PAPER NUMBER

2614

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/047,040

Applicant(s)

DUERK ET AL.

Examiner

Gerald Gauthier

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**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-9 and 11-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 and 11-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on February 21, 2006 has been entered.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. **Claim(s) 1-3, 5, 7, 9, 11, 15, 16, 18, 20, 21 and 23** are rejected under 35 U.S.C. 103(a) as being unpatentable over Amin et al (US 5,995,830) in view of Akhteruzzaman et al. (US 6,584,316).

For **claims 1, 2, 7, 9, 15, 20**, Amin discloses on items 122, 108, 126 of Fig. 1, MSC, voice mail node, and HLR (all together is the claimed "voice message processing circuitry") in communication with a mobile telephone (claimed "cell equipment").

Amin discloses on column 2 lines 1-31, determining the call is dropped and the user is connected to the voice mail node.

Amin fails to disclose automatically route the call, in response to determining the communication has been dropped.

However, Akhteruzzaman teaches automatically route the call, in response to determining the communication has been dropped (column 8, lines 5-25).

It would have been obvious to one skilled at the time the invention was made to modify Amin et al to have the party communicates with the dropped mobile device user over the wireless network via a voicemail such that the modified system of Amin et al would be able to support the system users better control of dropped calls among mobile phone users within the same wireless network and the same MSC.

Regarding **claims 3, 11, 16, 21**, Amin discloses item 102 Fig. 1, landline telephony device; item 120 Fig. 1, PSTN.

Regarding **claims 5, 13, 23**, Amin discloses on column 4 lines 59-67, the calling party is notified that the call has been dropped.

6. **Claims 4, 12, 17, 22** are rejected under 35 U.S.C. 103(a) as being unpatentable over Amin in view of Akhteruzzaman as applied to **claims 2, 7, 15 and 22** above.

Amin et al failed to teach the party communicates with the dropped mobile device user over the wireless network via a mobile telephone device.

However, "Official Notice" is taken that a plurality of mobile telephone users communicate to each other within the same wireless network via the same MSC is old and well known to one skilled in the art.

It would have been obvious to one skilled at the time the invention was made to modify Amin et al to have the party communicates with the dropped mobile device user

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over the wireless network via a mobile telephone device such that the modified system of Amin et al would be able to support the system users better control of dropped calls among mobile phone users within the same wireless network and the same MSC.

7. **Claims 6, 14 and, 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Amin in view of Akhteruzzaman as applied to **claims 1, 7 and 15** above, and in further view of Amin (US 6,418,307, hereafter Amin-8307).

Amin et al failed to teach a signal to be transmitted to the cell equipment and notifies a message has been left.

However, Amin-8307 teaches on column 1 line 46-61, the message center sends a notification to the cellular phone subscriber.

It would have been obvious to one skilled at the time the invention was made to modify Amin et al to have a signal to be transmitted to the cell equipment and notifies a message has been left as taught by Amin-8307 such that the modified system of Amin et al would be able to support the system users a better and efficient method of notification to retrieve a voice message.

8. **Claim 8** is rejected under 35 U.S.C. 103(a) as being unpatentable over Amin in view of Akhteruzzaman al as applied to **claim 7** above.

Amin et al failed to teach a second MSC and a second wireless network.

However, "Official Notice" is taken that two mobile telephone users communicate each other while each user belongs to different cell and different MSC of different wireless network is old and well known to one skilled in the art.

It would have been obvious to one skilled at the time the invention was made to modify Amin et al to have a second MSC and a second wireless network such that the modified system of Amin et al would be able to support the system users to communicate with other mobile telephone users in a different cell of different MSC of different wireless network.

### ***Response to Arguments***

9. Applicant's arguments with respect to claim(s) 1-9 and 11-23 have been considered but are moot in view of the new ground(s) of rejection.


### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gerald Gauthier whose telephone number is (571) 272-7539. The examiner can normally be reached on 8:00 AM to 4:30 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on (571) 272-7547. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
**GERALD GAUTHIER**  
**PATENT EXAMINER**

Gerald Gauthier  
Examiner  
Art Unit 2614

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